



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, सोमवार, 1 अक्टूबर, 1990/9 आश्विन, 1912

हिमाचल प्रदेश सरकार

गृह विभाग

अधिसूचना

शिमला-2, 1 अक्टूबर, 1990

संख्या गृह/पी० एस०/सी० एस०/९०.—हिमाचल प्रदेश के राज्यपाल, 20 जून, 1984 को राजपत्र, हिमाचल प्रदेश में प्रकाशित समसंख्यक अधिसूचना तारीख 8 जून, 1984 का अधिक्रमण करते हुए और भारत के संविधान के अनुच्छेद 22 के खण्ड (4) के साथ पठित राष्ट्रीय सुरक्षा अधिनियम, 1980 (1980 का 65) की धारा 9 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा हिमाचल प्रदेश उच्च न्यायालय के मुख्य न्यायमूर्ति की सिफारिशों के अनुसार, हिमाचल प्रदेश राज्य के लिए सलाहकार बोर्ड का तुरन्त निम्नलिखित रूप में पुनर्गठन करते हैं :—

1. न्यायमूर्ति श्री बी० के० महरोत्रा
2. न्यायमूर्ति श्री देविन्द्र गुप्ता
3. न्यायमूर्ति कुमारी कमलेश शर्मा

.. अध्यक्ष

.. सदस्य

.. सदस्य

आदेशानुसार,

पी० टी० बांगड़ी,
वित्तायुक्त एवं सचिव।

[Authoritative English text of Himachal Pradesh Government notification No. PS/CS/90, dated October 1, 1990 as required under clause (3) of Article 348 of the Constitution of India].

HOME DEPARTMENT

NOTIFICATION

Shimla-2, the 1st October, 1990

No. PS/CS/90.—In supersession of this Government notification of even number, dated June 8, 1984, published in the Rajpatra of Himachal Pradesh dated June 20, 1984 and in exercise of the powers conferred under section 9 of the National Security Act, 1980 (Act No. 65 of 1980) read with clause (4) of Article 22 of the Constitution of India and in accordance with the recommendations of the Chief Justice of the High Court of Himachal Pradesh, the Governor of Himachal Pradesh hereby re-constitute, with immediate effect, the Advisory Board for the State of Himachal Pradesh as under:—

- | | |
|---|-------------|
| 1. Mr. Justice V. K. Mehrotra, Hon'ble Judge | .. Chairman |
| 2. Mr. Justice Davinder Gupta, Hon'ble Judge | .. Member |
| 3. Miss Justice Kamlesh Sharma, Hon'ble Judge | .. Member |

By order,

P. T. WANGDI,
Financial Commissioner-cum-Secretary.

REGULATIONS OF PROCEDURE TO BE FOLLOWED BY THE COMMISSION OF ENQUIRY (MALHOTRA COMMISSION)

Shimla-171002, the 1st October, 1990

In exercise of the powers conferred under section 8 of the Commission of Enquiry Act, 1952 (hereinafter referred to as the ACT), the Commission of Enquiry constituted *vide* Government of Himachal Pradesh Notification No. Home (A) A (9)-41/90, dated the 4th September, 1990 hereby frames the following regulations to regulate its procedure, namely :—

1. All proceedings before the Commission shall be conducted in English.
2. The Headquarters and Office of the Commission shall be in Himachal Pradesh Secretariat, Shimla-2 and the Court proceedings would be held at such places to be notified/intimated from time to time.
3. The Office of the Commission shall function from 10.00 A.M. to 1.00 P.M. and from 2.00 P.M. to 5.00 P.M. on all days other than the holidays, observed by the Himachal Pradesh State Government unless otherwise declared by the Commission.
4. The Commission will ordinarily sit at its Headquarters, but, may at its discretion, sit at any other place. The date, time and venue of the sitting of the Commission outside the Headquarters will be notified from time to time.
5. All hearings of the Commission shall be open to public except when the Commission decides otherwise:

Provided that no visitor will be permitted to carry inside the office and court premises of the Commission where proceedings are to be held, any attache or a brief case or a bag or any container or package, the contents whereof are not visible from outside, or any weapon, instruments or other object or substance of any kind or any equipment which can create or lead to disturbance of any kind or otherwise cause interference in the oral conduct of the proceedings of the Commission.

- 6(a) The Commission shall issue a Notification to be published in such a manner as it may deem fit, inviting all persons or organisations acquainted with the subject matter of the enquiry to file before the Commission statements or affidavits relating to subject matters as may be specified in the Notification.
- 6(b) The Commission shall issue notice to every person who in its opinion should be given an opportunity of being heard in the enquiry, to furnish to the Commission a statement relating to the matters as may be specified in the notice. Every such statement shall be accompanied by an affidavit in support of the facts set out in the statement sworn by the person filing the statement.
7. All statements or affidavits under clauses (a) and (b) of Rule 6 shall be in English or Hindi and shall be drawn up in the first person and shall be divided into paragraphs to be numbered consecutively, each material statement of fact being made the subject matter of a separate paragraph. The person making the statement or swearing the affidavit shall state his description, occupation, if any, and his true place of abode.
8. Every affidavit shall be verified in the following manner:—

“I.....above named, do hereby solemnly affirm or take oath and say that the statements made by me in paragraphs No.....of the affidavit are true to my personal knowledge and those in paragraph..... No.....are derived from information received and believed to be true by me.

Verified.....(dated).....at.....(place)”.
9. All affidavits submitted to the Commission must be attested by a Judicial Magistrate or by an Executive Magistrate or an Oath Commissioner in the following manner:—

“Sworn/affirmed before me by the deponent above named, who is identified to my satisfaction.....by or who is personally known to me. The affidavit has been read out and explained in full to the deponent who has signed it/thumb marked it after admitting it to be correct, this.....day of....”
10. Every person filing an affidavit or statement before the Commission shall file, along with it, a list of documents, if any, on which he proposes to rely together with the original or true copies of the documents as are in his possession or power:

Provided that in the case of any documents not in his possession or power, the statement or affidavit must contain the name and address of the person from whom such documents may be obtained. Where, however, the documents referred to in the affidavit or statement is an official record, it shall be sufficient if the name of the Department or Office having the custody or control of such documents and full particulars of the records are specified in order to enable the Commission to call for the same.
11. Statements, affidavits, containing complaints or allegations which, in the opinion of the Commission do not relate to the enquiry, under the Notification appointing the Commission shall not and those as are frivolous and trivial in nature, may not, at the discretion of the Commission, be entertained or enquired into. In such a case, the complainant, the maker of the statement or deponent, as the case may be will be informed accordingly:

Provided it will be sufficient compliance of this provision, if in respect of complaints received through the State Government, only the State Government is suitably informed. A list of such cases shall also be open to inspection.
12. The Commission, may, at any stage, itself investigate any relevant matter and/or for that purpose examine any person or persons including any person who has already given a statement before the investigating staff, employed by the Commission, including any person who has submitted affidavit or statement to the Commission or its investigating authority. Such examination shall not be open to public.

- 13(a) The Commission shall examine all the statements and affidavits filed before it under Rule 6 and if, after such examination, the Commission considers it necessary to record evidence, it shall first record evidence, if any, produced by the Himachal Pradesh Government and may thereafter record evidence in such an order as it may deem fit:
- (i) The evidence of such person who has submitted a statement under clause (b) of Rule 6 and whose evidence the Commission having regard to the statement, considers relevant for the purpose of enquiry; and
 - (ii) The evidence of any other person whose evidence in the opinion of the Commission is relevant to the enquiry.
- 13.(b) After all the evidence is recorded under rule 13 (a), the Commission may 'suo-moto' or on the application of the Government of Himachal Pradesh or any other party, may recall any witness already examined or examine any new witness if the Commission is satisfied that it is necessary for the proper determination of any relevant fact to do so.
14. The Commission may at any stage of the proceedings, put any question to any party or witness before it, as it considers relevant and proper, in order to elicit any information relevant to the enquiry.
15. No person shall have the right to insist on the oral examination of any deponent of an affidavit. In case, however, the Commission intends to take such an affidavit into consideration, the Commission shall allow all the parties and persons referred to in Section 8B and 8C of the Act, the right of cross examination. The Commission in its discretion, may allow re-examination of such deponents.
16. The Commission shall call from the Government of Himachal Pradesh any complaint or representation which it might have received in relation to the matters specified relating to paragraphs 2, 3, 4 and 5 of the Notification No. Home (A)A(9)-41/90, dated the 4th September, 1990, from the Chief Secretary to the Government of Himachal Pradesh.
17. The Commission may authorise the Secretary or any other official of the Commission to issue summons or any other process envisaged under section 4 of the Act.
18. With the notice sent to a person who may be affected in terms of Section 8B and 8C of the Act, copies of the relevant documents or statements on which reliance is placed, will also ordinarily be sent. In case it is either not possible to supply such copies without great expense or inconvenience, such documents will be open to inspection in the office of the Commission on any working day during the office hours. A list of such documents, which the Commission is not sending to the person concerned will however, be sent to such person.
19. The Commission may, at its discretion summon any person to make a statement or give evidence before it. It shall, however, not be bound to summon any person merely because it is requested by any person to do so.
- 20.(a) Registered documents in original or their certified copies issued by the Registration Department will, as a rule, be admitted without requiring formal proof of their examination.
- (b) Official records of the Government Departments or Government controlled institutions, statutory bodies, State Undertakings, Bank and Co-operative Societies, including the office noting, orders etc. may, subject to any valid claims or privilege be admitted

without any formal proof unless the Commission in any particular case requires it to be proved in any of the ways laid down in the Evidence Act.

21. The Commission will not be bound by the rules of the Evidence Act, but will observe the fundamental principles of natural justice.
22. The Commission may at its discretion, take up all or any of the allegations or complaints or part of the same at a time for its consideration and proceedings.
23. The Commission shall, if necessary make local investigations either personally or through any person duly authorised by it, into any matter falling within its terms of reference. The Commission or its authorised delegate shall make full and complete note of the inspection which will be held after notice to parties or their advocates appearing before the Commission. Such notes shall form part of the record of the Commission after hearing the objections of the said parties, if any.
24. The Commission may either *suo-moto* or on the application made by any person or party, delete or expunge any matter from any petition, affidavit, statement or other documents or return any such petition, affidavit, statement, document presented to the Commission, which in the opinion of the Commission is irrelevant or needlessly offensive, scurrilous or a scandalous.
25. Travelling and other expenses, as the Commission may deem reasonable, shall be paid to a person who is summoned to assist the Commission, if he so demands.
26. The Commission reserves the right to alter, modify, delete, or add to any of these regulations, at any time as and when it considers necessary to do so.

Dated 1st October, 1990.

P. K. BHARDWAJ,
Secretary,
Commission of Enquiry,
(Malhotra Commission).

